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REMARKS

Applicant respectfully presents Claims 1-37 for examination in the RCE filed herewith. Claims 1, 9, 17, 25 and 31 have been amended herein to more clearly define the scope of the presently claimed invention. Applicant respectfully requests reconsideration of pending Claims 1-37 and submits that the claims and remarks presented herein overcome the Examiner's rejections in the Final Office Action dated June 3, 2005 in the parent application.

Double patenting rejection

The Examiner provisionally rejected Claims 1-37 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-30 of co-pending Application Serial. No. 09/912,427 (Attorney Docket No: P11167, Publication No. US2003/0078968). The Examiner suggests that although the conflicting claims are not identical, they are not patentably distinct from each other because both the present application and 09/946,521 disclose similar elements. Without conceding the appropriateness of the rejection, Applicant is agreeable to filing a terminal disclaimer as suggested by the Examiner in order to address this rejection, upon indication by the Examiner that at least one claim in the present case would be otherwise allowed.

35 U.S.C. § 102

Claims 1-2, 4-7, 9-11, 13-15, 17-18, 21-23, 25 and 28-37 stand rejected under 35 U.S.C. § 102 as anticipated by Wiryaman, U.S. Patent No. 6,157,401 (hereafter "Wiryaman"). The Examiner submits that Wiryaman teaches all the elements of independent Claims 1, 9, 17, 25 and 31. Applicant respectfully traverses the rejection.

Applicants respectfully reiterates that the Examiner incorrectly interpreted the contents of Wiryaman as it relates to the present invention. Wiryaman discloses end-point-initiated multipoint video conferencing. The Examiner suggests that various portions of Wiryaman disclose the elements of independent Claims 1, 9, 17, 25 and 31. Specifically, the Examiner states that Wiryaman discloses defining a sharing rule that specifies with which one or more recipients images are shared based on location-identifying information (Col. 3, lines 21-32) and applying location-identifying information associated with an image to the sharing rule to

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determine the one or more recipients with which the image should be shared (Col. 5, lines 1-9 and 46-54). Applicant strongly disagrees.

Col. 3, lines 21-32 of Wiryaman that the Examiner cites as disclosing defining a sharing rule that specifies with which one or more recipients images are shared based on location-identifying information, states the following:

"The communications by which the gatekeeper 18 manages various endpoints' communications occur over a registration, admissions, and status (RAS) channel implemented in messages whose format FIG. 2's first row depicts. The RAS protocol data unit is the payload of an unreliable transport-layer mechanism. In an Internet Protocol (IP) environment, for instance, it would be encapsulated in a User Datagram Protocol (UDP) datagram. As is well known and described in detail in the Internet Community's Requests for Comments ("RFCs") 768 and 1122, a UDP datagram takes the form that FIG. 2's second row depicts."

Col. 5, lines 109 and 46-54 of Wiryaman that the Examiner cites as disclosing applying location-identifying information associated with an image to the sharing rule to determine the one or more recipients with which the image should be shared, states:

"So when an endpoint includes a given conference's alias in its ARQ message to the gatekeeper 18, the gatekeeper is able to translate that alias to the appropriate transport-level address in the "destCallSignalAddress" field of the ACF message with which it responds to the requesting endpoint. From the participating endpoints' perspectives, the videoconference then proceeds as usual, but they are in actuality communicating to a greater or lesser degree through the multipoint control unit rather than directly with each other.... The destinationInfo field's format is conventional: it requires no special support on the endpoint's part. In accordance with the present invention, though, the gatekeeper determines whether the destinationInfo field contains what we will call a "compound address." If it detects such an address, it causes a multipoint control unit to set up a conference. Preferably, it is the user who provides the indicator of whether there is a compound address; no separate endpoint-equipment support is necessary."

Applicant again submits that there is no mention in these section of the concepts of "defining a sharing rule", "location-identifying information" and/or "applying location-identifying information" to "determine the one or more recipients". The Examiner's response to this argument is that "various endpoints" are the "one or more recipients" and "the configuration of the gate keeper is considered as the claimed "sharing rule". The Examiner then goes on to say

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that “the gatekeeper will either grant or deny access to the user for videoconferencing based on the ‘sharing “rule””.

Applicant respectfully submits that the Examiner failed to address Applicant’s previously submitted argument re the phrase “location-identifying information”. Specifically, Applicant previously submitted that the sections of Wiryaman highlighted by the Examiner appear to identify devices based on some form of *network address* rather than their *location*. It is well known in the art that network addresses may be used to identify devices on a network, but these network addresses do not identify a *physical location* of the device. Thus, the scheme described in Wiryaman is similar to prior art schemes of sharing images, as described in the Background section of the specification (page 2, lines 9-20):

“Many such Web sites also offer a user the ability to send an e-mail to one or more recipients containing a hyperlink to the one or more digital photos to be shared with those recipients. By clicking on the hyperlink in most conventional e-mail software applications, a recipient can be quickly directed to all or some of the digital photos on the Web site through the recipient’s browser. In some cases, the recipient may need to *provide authorization information* to gain access to the digital photo(s) because the user may not wish to provide open access or wants to selectively present different digital photos to different users. Another variation on this theme involves sending not a link but the actual digital photo itself to the one or more recipients. In this manner, the user does not need to attach or embed the digital photo into an e-mail; the user simply needs to *identify recipients (and typically their e-mail addresses)* to the Web site and the Web site software generates and sends e-mails including the digital photo(s) to the intended recipients.”
(emphasis added)

The invention, as claimed in independent Claims 1, 9, 17, 25 and 31 is directed to a system, apparatus, method and article for *location-based* image sharing. More specifically the elements of these independent claims include the limitations of defining a sharing rule that specifies with which one or more recipients images are shared based on *location-identifying information* associated with the one or more recipients images, and applying *location-identifying information* associated with an image to the sharing rule to determine the one or more recipients with which the image should be shared. As described in the specification, location-identifying information includes “latitude/longitude coordinates provided by a global positioning system (GPS) included in or interoperating with the camera, manual location-identifying information associated with the image by the user in the camera or in a computer system into which the

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image is loaded, radio frequency identification (RFID) information provided by a RFID system included in or interoperating with the camera (e.g. a camera capable of reading RFID tags that are used to mark locations such as beacons), or any other location-identifying information associated with an image whether automatically or manually. The location-identifying information may also be associated with the image before, contemporaneously with, or after the image is taken and may be associated with the image in the camera or elsewhere such as on a computer system. Indeed, the image may be further processed by, for example, changing format, before or after the location-identifying information is associated with the image.” (Specification, Pages 4-5).

The type of location-identifying information claimed herein is thus in direct contrast to the so-called “location” scheme highlighted by the Examiner in Wiryaman. Wiryaman does not disclose any such location identifying information, as claimed, wherein the location-identifying information is associated with the image. The Examiner fails to address this aspect of the independent claims, but later refers to location identifying information with respect to the dependent claims. In these sections, the Examiner’s own comments highlight the difference between the location-identifying information as claimed herein and the scheme in Wiryaman. Specifically, the Examiner states that “Wiryaman’s gate keeper automatically send the digital image once the requested admission is granted (See col. 5, lines 1-25). Note that the gatekeeper will automatically send the image to any location including a Web site as long as the *address* is registered”. Again, Applicant respectfully submits that this type of location identification is NOT what is claimed herein. Instead, this is described as prior art in the Background section of the application (see above).

The Examiner additionally suggests that the step of “applying location-identifying information to determine the one or more recipients” is “present in Col. 5, lines 26-54 (of Wiryaman) where a destinationInfo field provides a ‘compound address’ where a multipoint control unit set up a video conference”. Applicants respectfully point out again that using an address to submit that the Examiner’s interpretation of these section is erroneous because Applicant has already conceded (see e.g., Specification, page 2, lines 9-20) that it is well known in the art that network addresses may be used to identify devices on a network. Nothing in the prior art, however, (cited here or otherwise) discloses identifying location-identifying information, i.e., indentifying the *physical location* of the device.

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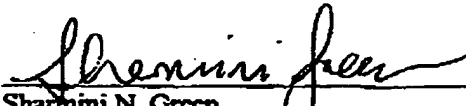
CONCLUSION

Based on the foregoing, Applicant respectfully submits that the applicable objections and rejections have been overcome and that pending Claims 1-37 are in condition for allowance. Applicant therefore respectfully requests an early issuance of a Notice of Allowance in this case. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (714) 669-1261.

If there are any additional charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

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